



Norman H. Bangerter

Governor

Kenneth L. Alkema

Executive Director

Don A. Ostler, P.E.

Director

State of Utah
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

288 North 1460 West

P.O. Box 144870

Salt Lake City, Utah 84114-4870

(801) 538-6146

(801) 538-6016 Fax

Wayne (sec p3)

m/045/017

RECEIVED

JUL 09 1992

DIVISION OF
OIL GAS & MINING

July 6, 1992

CERTIFIED MAIL

(Return Receipt Requested)

Frank D. Wicks
Vice President and General Manager
Barrick Mercur Gold Mine
P.O. Box 838
Tooele, Utah 84074

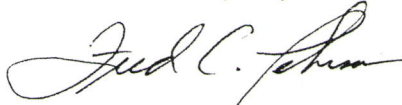
RE: Transmittal of Draft Stipulation and Consent
Order

Dear Mr. Wicks:

Please find the enclosed Draft Stipulation and Consent Order for the resolution of the Notice of Violation and Order issued February 27, 1992. Arrangements to meet have been made for July 9, 1992 to discuss this matter. This copy is provided to you in order to facilitate a more effective discussion at that time. If Barrick has any questions concerning this matter they can be brought to our attention at the scheduled meeting or you can contact Dennis Frederick at 538-6146. A penalty calculation will be made by our office prior to this meeting and will be presented to you at this time.

Sincerely,

Utah Water Quality Board


Don A. Ostler, P.E.
Executive Secretary

Enclosure

DAO:DAF:gt

cc: Myron Batemen, Tooele County Health Department
Lucy Jenkins, Parsons Behle & Latimer
Fred Nelson, Utah Attorney General's Office
Lowell Braxton, DOGM
Glade Shelly, Utah County Health Department

Q:BARICK12.LTR

FILE:GROUND WATER BARRICK CYANIDE SPILL DOCKET GW92-02

DRAFT

In the Matter of: :

Barrick Mercur Gold Mine : STIPULATION AND CONSENT ORDER

Docket Number GW 92-02 :

This STIPULATION AND CONSENT ORDER is issued by the Utah Water Quality Board (the "Board") representing the State of Utah (the "State") pursuant to the Utah Water Quality Act (the "Act"); Section 19-5-101 et seq., Utah Code Annotated, 1953 as amended.

1. The parties agree that the Board has jurisdiction over this matter.
2. Barrick Resources (USA), Inc. also called Barrick Mercur Gold Mine (Barrick) operates a tailings impoundment facility in Reservation Canyon at the Tooele/Utah County border in Section 5 of Township 6 South, Range 3 West.
3. The BOARD issued a Notice of Violation (NOV) and ORDER on February 27, 1992 (Docket No. GW92-02) to Barrick in response to self reported cyanide wastewater spill to Mercur Canyon on February 17, 1992 and a site inspection conducted on February 18, 1992.
4. Barrick responded in timely manner to the NOV/Order (Docket No. GW92-02) and submitted a request for a hearing.
5. The parties now desire to resolve this matter fully without further admissions and without further administrative or judicial proceedings except to the extent provided below by entering into this CONSENT ORDER. By doing so, Barrick withdraws its request for a hearing before the Board.
6. NOV/Order (Docket No. GW92-02) shall be resolved by completion of the terms of this CONSENT ORDER.
7. For the purpose of this CONSENT ORDER the parties agree and stipulate to the above stated facts. None of the stipulations related herein shall be considered admissions by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER.

ORDER

1. In settlement of the violations alleged in the February 27, 1992 NOV/ORDER a penalty amount has been calculated utilizing the Board's Civil Penalty Policy, that takes into account factors such as the magnitude of the violations, the potential degree of environmental harm, the degree of good faith shown by Barrick, as well as costs already incurred and to be incurred to conduct studies and mitigation associated with this matter. The Board has assessed and Barrick agrees to a penalty in the amount of \$??,000.00 which shall be paid to the Division of Water Quality, State of Utah, Salt Lake City, Utah 84114-4870.
2. Barrick shall submit within 60 calendar days of the execution of this CONSENT ORDER complete plans, specifications, design calculations and operational procedures for the permanent pump back systems installed at the clear water pond and the saddle dam seepage pond and for the existing main dam seepage collection and chimney drain pump back system. The information submitted, in addition to the requirements above, shall detail and demonstrate that the conditions of Parts I.D.5, I.D.6 and I.D.7 of the Ground Water Quality Discharge Permit No. UGW450002 have been implemented. Within 60 days of written receipt of deficiencies to the above referenced submittal, Barrick shall, as directed by the Executive Secretary, resubmit the information rectifying the deficiencies and/or certify in writing that any changes to the systems or operational plans requested by the Executive Secretary, have been implemented.
3. Barrick shall monitor on a quarterly basis shallow monitoring wells MW-5 and MW-7 through out the remaining life of the Mercur operation. The results will be reported on a quarterly basis to the Executive Secretary, as per the schedule outline below. The results of all previous monitoring at these wells shall be submitted within 30 days of the execution of this CONSENT ORDER. Samples taken for analysis shall be analyzed for the parameters of Table I of the Ground Water Quality Discharge Permit No. UGW450002.

<u>Monitoring Period</u>	<u>Report Due Date</u>
January to March	April 30
April to June	July 31
July to September	October 31
October to December	January 31

4. All sampling, handling and analysis required in Paragraph 3, above, shall be conducted in accordance with the procedures of the approved Water Quality Sampling and Analysis Plan of the Ground Water Quality Discharge Permit No. UGW450002.

5. The Contamination Study proposed by Barrick and submitted in response to the NOV/ORDER, shall be executed by Barrick and the results thereof reported to the Executive Secretary by September 30, 1992. (The proposed study was submitted as an enclosure to the March 25, 1992 letter from Frank D. Wicks to Don A. Ostler.) Soils that present any endangerment to public health or the environment, as determined by the Executive Secretary, will be removed and placed in the tailings impoundment within 30 days of written notice from the Executive Secretary. The excavated soils will be replaced from stockpiled topsoils and revegetated in accordance with the Paragraph 6.
6. The Erosion Control and Revegetation measures proposed by Barrick and submitted in response to the NOV/ORDER shall be executed by Barrick and the results thereof reported to the Executive Secretary by September 30, 1992. (The proposed remedial measures were submitted as an enclosure to the March 25, 1992 letter from Frank D. Wicks to Don A. Ostler.) The only additional requirement to this proposed study is that Barrick revisit the sites of the erosion control and revegetation measures on a monthly basis, between the months of April and November, 1993 to insure that these measures are successfully established. A written report documenting these activities shall be submitted to the Executive Secretary on or before November 30, 1993. In the event that the erosion control measures are not successful by November 30, 1993, Barrick shall be required to undertake the above described measures in the subsequent year and will do so in each following year until the remedial measures are successfully completed.
7. Barrick shall in addition to the penalty specified in Paragraph 1, pay the following stipulated penalties to the Division of Water Quality in the event that the deadlines for any of the submittals described in the above paragraphs are not met.

Submission of the Pump Back Systems Report	\$250.00 ____per day
Certification of Completion of Pump Back System Changes	\$250.00 ____per day
Submission of Contamination Study Report	\$250.00 ____per day
Completion of Soil Removal and Replacement Measures	\$250.00 ____per day
Erosion and Revegetation Corrective Action Report	\$250.00 ____per day
Submission of Historical Monitoring Well Information	\$250.00 ____per day
Submittal of Quarterly Ground Water Monitoring Data	\$250.00 ____per day
Failure to Follow Approved QA/QC Monitoring Procedures	\$250.00 ____per event

Amounts payable under this provision will be remitted within 30 days of notice from the Executive Secretary that a deadline has been exceeded. Barrick may petition the Executive Secretary for extension of any deadline imposed by this order for reasonable cause prior to the deadline. The Executive Secretary shall evaluate the petition and either grant an extension or deny it. Barrick may appeal any denied extension to the Water Pollution Control Committee within 10 days of receipt of the denial. In the event of denial of a requested extension, the Committee may require payment of all or part of the suspended penalties referenced in Paragraph 1 of this order.

ways: do we buy the re-veg. measures?

8. Barrick shall reimburse the Executive Secretary for the costs of reviewing and overseeing compliance with the Work Plans referenced herein. The Executive Secretary shall submit periodic invoices to Barrick identifying the oversight and review costs. Within thirty (30) days of receipt of each such invoice, Barrick shall remit a check to the State for the full amount of those costs, payable to the Utah Division of Water Quality, P.O. Box 16690, Salt Lake City, Utah 84116-0690. In the event of a dispute between Barrick and the Executive Secretary regarding oversight and review costs, Barrick shall have the right to seek review by the Board as provided for in paragraph 9 of this order.
9. Nothing in this CONSENT ORDER shall constitute or be construed as a waiver by the State of its right to initiate enforcement action, including civil penalties, against Barrick in the event of future noncompliance with the Utah Water Quality Act, nor shall the State be precluded in any way from taking appropriate action to abate an imminent endangerment to public health or the environment should such a situation arise at Barrick's facilities. Except as provided in paragraph one, nothing in this CONSENT ORDER shall constitute or be construed as a release from any claim, to include natural resource damage claims, cause of action, or demand in law or equity which the State or Barrick may have against each other or any person, firm, partnership, or corporation for any liability arising out of or relating in any way to the release of pollutants to waters of the State.
10. This CONSENT ORDER expressly contemplates submission of certain plans, proposals and reports by Barrick to the Executive Secretary for his review and approval. Where opportunity for review and approval is provided, Barrick shall not proceed with the proposed activity unless and until approvals have been received. If agreement by Barrick and the Executive Secretary cannot be reached regarding any plan, proposal or report under this CONSENT ORDER, Barrick or the Executive Secretary may commence a declaratory order proceeding under the Utah Administrative Procedures Act and applicable regulations of the Committee to resolve the disputed plan, proposal or report. The Committee's decision in any adjudicative proceeding shall constitute final agency action and be subject to judicial review under applicable state law.
11. Barrick's failure to meet or satisfy any requirements set out in this CONSENT ORDER shall be excused for a reasonable time to the extent the failure is caused by events beyond Barrick's control, including without limitation acts of God, public enemy, unforeseen strikes or work stoppages, fire, explosion, flood, tornado, earthquake, lightning, riot, sabotage or war.

This CONSENT ORDER shall become effective upon execution by Barrick and the Executive Secretary of Utah Water Pollution Control Committee.

DATED this ____ day of _____, 1992.

Barrick Resources (USA) Inc.

Utah Water Quality Board

By: _____

By: _____

Title _____

Don A. Ostler, P.E.
Executive Secretary

Q:BARRICK2.SCO

FILE: GROUND WATER DOCKET NO. GW92-02